

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2180 OF 2019

1. Kundan S/o Devidas Kumawat,
Age : 24 Years, Occ. Education
2. Narsing S/o devidas Kumawat,
Age : 26 Years, Occ. Education
3. Akash S/o Walmik Kumawat,
age : 26 Years, Occ. Education

All Resident Neri Bk. Tq. Jamner,
Dist. Jalgaon

...APPLICANTS

VERSUS

1. The State of Maharashtra
2. The Police Inspector,
Jamner Police Station, Jamner,
Tq. Jamner, Dist. Jalgaon
3. Hiralal S/o Puna Godave,
Age : 35 Years, Occ. Business,
R/o. Neri Bk Tq. Jamner,
Dist. Jalgaon

..RESPONDENTS

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Advocate for Applicants : Mr. Pati Pramod D.
 Advocate for respondent Nos. 1 and 2 : Mrs.V.N.Patil Jadhav
 Advocate for respondent No.2 : Mr. A.J. Patil

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CORAM : T.V. NALWADE &
M.G.SWELIKAR, JJ.
DATE : 06-01-2020.

ORAL JUDGMENT(PER T.V. NALWADE, JJ) :-

Rule. Rule made returnable forthwith. By consent heard
 both the sides for final disposal.

2. The proceeding is filed for relief of quashing of C.R. No.

60/2018 registered with Jamner Police Station for the offences punishable under Section 395 of Indian Penal Code and Section 3(1)(X) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act). The relief of quashing of charge sheet filed in the crime bearing No. 61/2018 is also claimed.

3. The papers of investigation were made available to the Court. The crime is registered on the basis of report given by respondent No.3 Hiralal S/o Puna Godave. In the F.I.R dated 13.06.2018, he has made allegations that present applicant, Kundan Kumawat had called him to Khandve Hotel on 12.06.2018 for having Tea. It is contention that he had taken loan of Rs. 20,000/- from Kundan in the past but he had returned the amount with interest on 09.06.2018. It is his contention that when he went to the Hotel, he saw Kundan, his brother Narsing and his father Devidas. According to him other persons like Akash, Valim Kumawat, Bapu Shankar Kumawat were also there and they started threatening to the informant by saying that he should return the money taken from Kundan. According to him when he replied that he had returned the amount three days back, these persons became angry, they gave abuses by taking name of his caste and they said that they would teach him a lesson. According to him all

of them assaulted him with fists and kicks blows. According to him, he belongs to Scheduled Castes and the applicants belong to Beldar community which is not Scheduled caste or Scheduled tribe. According to him, during the incident the cash amount of Rs. 50,000/- which was in back pocket of his purse was taken away by Narsing. According to him, his brother on maternal side Kantilal was also assaulted, when he came ahead to rescue him. According to him, due to serious beating he was injured and he was shifted in the Ambulance to the Government Hospital. His report came to be recorded in the hospital. The incident took place on 12.06.2018, after 4.00 p.m and crime came to be registered on 13.06.2018 at 22.00 hours.

4. The learned counsel for the applicants submitted that to the other persons, like Devidas and Bapu alias Narayan, relief is granted by this Court by allowing Criminal Application No. 277 of 2018. Copy of the said decision is produced on record. This Court has observed that those applicants had probably no reason to get involved in the incident and dispute and there is clear probability that by exaggeration, these names were added. Careful perusal of the allegations made against the present applicants show that specific allegations are made as against Kundan and Narsingh. Narsingh is real brother of

Kundan and there are serious allegations as against him. There are vague and omnibus allegations against Akash Valmik Kumawat. Akash does not appear to be from the family of Narsingh. The allegations in respect of the offence punishable under Section 3(1)(X) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act) are also vague. The injury certificate shows that the informant was examined on 12.06.2018 in Primary Health Center and six injuries like swelling and abrasions were found. Few abrasions were on right forearm. There was bleeding and injury were sustained within one to two hours. All the injuries are described as simple injuries. As Akash could not have any motive for the offence and there are aforesaid circumstances, this Court holds that relief can be given only to applicant No.3 Akash S/o Walmik Kumawat. In the result, following order :-

ORDER

1. The application of Applicant Nos. 1 and 2 stands rejected.
2. The application of Applicant No.3 Akash S/o Walmik Kumawat is allowed.
3. Relief is granted to Applicant No.3 Akash Walmik Kumawat in terms of prayer clause (B).

Rule is made absolute in those terms.

(M.G.SWELIKAR)
JUDGE

[T.V. NALAWADE]
JUDGE